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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,058	12/11/2003	Noel G. Smith	Erv Smith	2499
26365	7590	01/27/2006	EXAMINER	
ANTHONY J. BOURGET P.O. BOX 81 EAU CLAIRE, WI 54702-0081			EDWARDS, LAURA ESTELLE	
			ART UNIT	PAPER NUMBER
			1734	
DATE MAILED: 01/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/735,058

Applicant(s)

SMITH, NOEL G.

Examiner

Laura Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) 1-28 and 72-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-37 and 40-64 is/are rejected.
- 7) ☒ Claim(s) 38,39 and 65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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*Election/Restrictions*

The restriction requirement grouping is properly cited below as noted in the telephonic interview as of 1/19/06.

CORRECTION:

IV. Claims 29-71 [typo 81-82], drawn to a spray booth, classified in class 118, subclass 326.

VIII. Claims 81-82, drawn to a self-supporting fastenerless enclosure, classified in class 52, subclass 35.

Applicant acknowledges proper restriction to Groups I, II, III (claims 18-21 only), IX, and X as set forth at the bottom of page 2 of the remarks as of 11/14/05.

Applicant's election with traverse of Group IV, claims 29-71 is acknowledged. The traversal is on MULTIPLE GROUNDS that have been shortly summarized:

1) Applicant contends that Group III should include claims 18-21 and NOT claims 18-28 as indicated in the original restriction requirement while claims 22-28 directed to a self supporting fastenerless spray booth should be bulked in with the spray booth apparatus of Group IV. While all spray booth apparatus claims could be examined together, in this instance, the spray booth apparatus of claims 22-28 and 29-71 are not structurally the same or structurally equivalent. Examination of two different combinations of elements to form a spray booth would be unfair to the Examiner substantially limited in examination time. Moreover, the search would not be the same for both spray booths because of their different structure. The fastenerless spray

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booth of claims 22-28 is structurally distinct from the spray booth apparatus of Group IV, claims 29-71. There is nothing in the body of the claims of the fastenerless spray booth to make it a spray booth, it would merely require a panel capable of receiving a spray whether of paint or soap or water such as in a bathroom shower enclosure. The fastenerless spray booth claims require the same claim language as the enclosure of claim 18, specifically, at least two panels, each including a rectilinear base member,...a first rectilinear side member,...a second rectilinear side member,... and at least one corner post. The other structurally distinct spray booth of Group IV, claims 29-71 is directed to a spray booth that could include fasteners and requires a plurality of panels,...”to form a spray booth wall”; at least one channel,... and a post. The language of Claims 22-28 is properly grouped with the enclosure structure of Group III because all the structural language in the body of claims 22-28 is substantially the same as that of claims 18-21 to the enclosure. Therefore, the restriction requirement between Group III, claims 18-28 and Group IV, claims 29-71 is deemed reasonable and proper.

2) Applicant contends that all the inventions of Groups III (claims 22-28), IV, VI, VII, and VIII should be examined together because all the claims in all of these groups pertain to spray booths and/or have identical or similar core apparatus features and/or have such core method features that restriction is not warranted and examination of all these groups together is proper. This argument is not found persuasive primarily because the apparatus claims of Groups III and IV are structurally distinct for reasons mentioned above with respect to the first restriction argument. Secondly, the apparatus of Group VIII, claims 81-82 is drawn to another self-supporting fastenerless enclosure requiring a different combination of structural elements than that of Groups III and Group IV. The invention of Group VIII does not require any

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particulars to a spray booth and the body of the claim supports a slightly different combination of elements than all the spray booths set forth in Groups III and IV. The invention of Group VIII is required to be self-supporting and fastenerless and include in combination the top panel or roof with side panels having opposite side ends selectively arrangable in series with opposing side ends of adjacent side panels being attached together to form a wall of the enclosure; at least one channel formed at one of the side ends of at least one of the side panels, the channel including a first lip positioned at the one of the side ends and a second lip oriented at an acute angle with respect to the first lip; a post securable to an adjacent side panel and removeably receivable within the at least one channel to releasably engage the at least one side panel to engage the side ends of the adjacent side panels. The combination of Group VIII is structurally different and does not have to be used as a spray booth as the structure of Group IV. The invention of Group VIII can be used for an enclosure to form a building or even modular furniture. For such a reason, restriction between the spray booth of Group IV, which does not exclude supports and/or fasteners, and the self-supporting, fastenerless enclosure of Group VIII is deemed reasonable and proper. As for the methods of assembly of Groups VI and VII, while Applicant's arguments are well taken that these claims include structural limitations recited in the apparatus claims, the method claims can all be construed to be completed by hand or by mechanical means such as construction equipment or a robotic arm depending on the environment. While the original restriction requirement sets forth these different methods taking into account the different structural manipulations, these method claims of assembly have a specific place of classification recently brought to my attention, namely in Class 52, subclasses 741.1+. These claims would NOT be found in Class 118, coating apparatus. Each particular method whether based upon the

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assembly being rotationally engaging the parts as set forth in Group VI or slidably/releasably engaging the parts as set forth in Group VII would set the various methods of assembly apart for examination purposes. Examination of all the various combination of spray booths and or methods of assembly due to the different search areas and/or different criterias for patentability (i.e., method/apparatus), would place extreme pressure on the Examiner resulting in an undue burden especially in light of a substantially limited amount of examination time.

Therefore, the requirement is still deemed reasonable and therefore proper.

#### ***Claim Rejections - 35 USC § 112***

Claims 30 and 40-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 30, lines 2-3, "the at least one end" lacks antecedent basis.

In claim 40, line 2, "the plurality of side panels" lack antecedent basis.

In claim 56, line 8, "the at least one end" lacks antecedent basis.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 29-37, 52, 56, 57, 59-64, and 66-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Stohr (US 4,953,734).

Stohr teaches a cabin or booth capable of receiving a spray comprising metal panels (2') having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form to cabin or booth wall, at least one u-shaped channel (area 2b) formed at one of the ends of the panels, and a post (2'a) securable to an adjacent panel and capable of rotationally engaging the at least one channel to releasably engage the at least one panel to attach ends of adjacent panels (See Figs. 2, 3, and 7).

With respect to the panels being arrangeable in series, the plurality of panels can be arranged as desired based upon how the adjacent panels are connected end to end (see col. 1, lines 29-48) such that the Stohr can or booth can be arranged in square or rectangular form to define a cabin or booth.

With respect to post including a wing, see Fig. 7, wherein post includes a wing (2'd).

With respect to the channel having a first lip, see the first lip (2d in Fig. 7) and second lip (2d) at the end of the channel, the lips both being disposed adjacent one another at an angle less than 90 degrees.

With respect to the channel including a first lip and second lip see the preceding paragraph and furthermore, the channel of Fig. 7 is on a hook-corner or u-shaped configuration.

With respect to the spray booth having channels at ends of adjacent panels, the configuration of Fig. 7 shows that adjacent panels can include an end channel which mates with a winged post.

*Allowable Subject Matter*

Claims 38, 39, and 65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 40-51, 53-55, and 58 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 38 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of panels having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels; a post securable to an adjacent panel and rotationally engageable within the at least one channel to releasably engage the at least one panel to attach the ends of the adjacent panels; wherein the at least one channel comprises at least two channels, each formed along a length of one of the ends of the adjacent panels with the post being rotationally engageable within both of the at least two channels.

Claim 39 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of panels having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels; a post securable



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to an adjacent panel and rotationally engageable within the at least one channel to releasably engage the at least one panel to attach the ends of the adjacent panels; wherein the plurality of panels includes at least two panels attached end-to-end in series in a perpendicular orientation; the at least two panels each include a channel formed along opposing ends of the panels, and the post includes a winged-L-shaped coupler, cooperating with the opposing channels to removably hold the panels together.

Claims 40-51 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of panels having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels; a post securable to an adjacent panel and rotationally engageable within the at least one channel to releasably engage the at least one panel to attach the ends of the adjacent panels; wherein the plurality of panels includes at least two side panels attached end-to-end in series in a co-linear orientation; and wherein at least one of the two panels includes at least another channel formed at one of the ends opposing the end of the other panel wherein the at least one of the two panels is rotationally engageable with the other panel at the at least another channel to removeably hold the at least two panels together in a co-linear orientation.

Claims 53 and 54 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of panels having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels; a post securable to an adjacent panel and rotationally engageable within the at least one channel to

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releasably engage the at least one panel to attach the ends of the adjacent panels, the post including at least one post wing insertable through a channel opening defined by at least one panel end, the post including a post channel, the adjacent panel rotationally engageable with the post channel to releasably engage the adjacent panel to the at least one panel, the post channel including a post hook wall oriented at an acute angle with respect to the post wing.

Claim 55 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of panels having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels; a post securable to an adjacent panel and rotationally engageable within the at least one channel to releasably engage the at least one panel to attach the ends of the adjacent panels, the post includes at least one post wing insertable through a channel opening defined by the one end; the post including a post channel, the adjacent panel rotationally engageable within the post channel to releasably engage the adjacent panel to the at least one panel, the post including a S-shaped coupler, cooperating with the opposing side panels to removeably hold the panels together.

Claim 58 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of panels having opposite ends selectively arrangeable in series with opposing ends of adjacent panels being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels, the at least one channel including a first lip positioned at the one of the ends and a second lip oriented at an acute angle with respect to the first lip; and a post securable to an adjacent panel, the post including a post wing insertable through a channel opening defined by at least one end, the at least one panel

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rotationally engageable with the post at the at least one channel wherein the post wing abuts the second lip to engage the end of the at least one panel to the adjacent panel, the post including a post channel formed opposite the at least one post wing, the adjacent panel rotationally engageable within the post channel to releaseably engage the adjacent panel to the end of the at least one panel, the post channel including a second post wing and a post hook wall oriented at an acute angle with respect to the second post wing.

Claim 65 would be allowable because there is no teaching or suggestion in the prior art of a spray booth comprising the combination of at least two adjacent panels having opposite ends being attached together to form a spray booth wall; at least one channel formed at one of the ends of at least one of the panels, the channel including a first lip positioned at the one of the ends and a second lip oriented at an acute angel with respect to the first lip; and a post securable to an adjacent panel and removeably receivable within the at least one channel to releasably engage the at least one panel to engage the ends of the adjacent panels, wherein the at least two panels are attached end-to-end in series in a perpendicular orientation; wherein the at least two panels each include a channel formed along opposing ends of the panels, and the post includes a winged L-shaped coupler, cooperating with the opposing channels to removeably hold the panels together.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose the state of the art with respect to connectable panels:


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Parth (US 5,725,201), Watson, Jr. (US 3,397,500), and Wagenknecht, nee Hissbach (US 3,813,840).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Laura Edwards  
Primary Examiner  
Art Unit 1734

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January 23, 2006